

On December 20, 1999 the GAO denied Parmatic Filter Corporation's protest of TACOM-Rock Island's award to Hunter Manufacturing Company for 1,800 each 200 CFM Gas Particulate filters for \$1.2 million. The award was made under a sole-source urgency justification and was added on to Hunter's existing production contract. Parmatic alleged that it had the ability to meet the Government requirements. The GAO found that the Contracting Officer reasonably determined that the sole source award was necessary to meet urgent requirements where Parmatic would have had to pass first article testing requirements and establish a production line under severe time constraints. The GAO also noted that the Contracting Officer reasonably considered Parmatic's production problems on a similar item.

There was concern that the protest might be sustained for several reasons:

First, there was a concern that a statement in the J&A that "no other sources had expressed an interest in writing," would be perceived as disingenuous or misleading since the PCO was aware of Parmatic's general interest in producing the item at the time the J&A was executed. At the hearing, the GAO touched upon this issue. However, in informal ADR sessions the GAO hearing attorney would not indicate whether the protest would be sustained on this basis. The decision ultimately stated in a footnote that the J&A "could have more fully discussed the contracting officer's consideration of Parmatic as a potential source, and the reasons for concluding that Parmatic could not meet the urgent requirements." Lesson learned: The J&A should discuss all relevant issues material to the approval authority's decision, including facts about known competitors and why they are unable to meet a particular requirement.

Second, there was a concern that urgent delivery schedule agreed to under contract was greater than the delivery schedule contemplated in the J&A, which Parmatic claimed refuted the urgent requirement. The PCO explained that the schedule under contract was a mistake and that Hunter was actually meeting the schedule contained in the J&A. The GAO concluded that the mistake was genuine. The lesson learned: to error is human, but come clean once you do.

Third, there was a concern that the procurement activity could not adequately identify the genesis of the urgent requirement and demonstrate that the requirement was not the result of a lack of planning. Government records demonstrated a monthly calculation of stock on hand and forecasts for requirements, but there was some internal concern about whether the forecasts were accurate or current. There was also a concern about whether the procurement activity adequately monitored forecasts and demand to prepare for competitive acquisitions. While the decision did not address this issue in depth, a lesson learned would be to keep on top of demands and forecasts to avoid attacks against lack of planning arguments.